PUBLIC ACCOUNTS COMMITTEE.

President : As a result of the election held yesterday, Mr. V. S. Arumukham Pillai is declared elected as member of the Public Accounts Committee for 1114 in the Place of Mr. R. V. Thomas. Mr. Arumukham Pillai has secured twelve votes ; two other votes are invalid.

Mr. Padiyara Joseph Kunju (*Nominated*) : സർ, ആഗ്രിക്കൽച്ചറിസ്റ്റ് റിലീഫ് റഗുലേഷൻ അമൻറുമെൻറ ബിൽ ഇന്നിവിടെ അവതരിപ്പിക്കുന്നതിന് ഞാൻ അനുവാദം ചോദിച്ചിരുന്നു. ആ ബിൽ ഇന്നത്തെ അജൻറയിൽ മൂന്നാമതായിട്ടാണ് ചേർത്തിരിക്കുന്നത്. മുമ്പിൽ ചേർത്തിരിക്കുന്ന രണ്ടു ബില്ലും പര്യാലോചനയ്ക്ക് എടുക്കുകയാണെങ്കിൽ എൻറെ ബിൽ അവതരിപ്പിക്കുന്നതിന് സമയം ലഭിക്കാതെ വരുമെന്നു ഞാൻ ഭയപ്പെടുന്നു. അതുകൊണ്ട് രണ്ടു മിനിറ്റു സമയം അനുവദിക്കുകയാണെങ്കിൽ എൻറെ ബിൽ ഇപ്പോൾ തന്നെ ഇവിടെ അവതരിപ്പിക്കാൻ സാധിക്കുന്നതാണ്.

President : The two Bills referred to will not take much time

Legislative Business.

THE TRAVANCORE HINDU WOMEN'S RIGHTS TO PROPERTY BILL.

Mr. G. Narayana Aiyar (*Parur, Kunnatnad, Muvattupuzha* cum *Devicolam*) : Sir, I beg to introduce the Travancore Hindu Women's Rights to Property Bill.

The necessity for the measure has been set out in detail in the Statement of Objects and Reasons. The Hindu Widows in Travancore who are governed by the Mitakshara Law are now labouring under very serious difficulties in getting even their quota of maintenance from the members of their husbands' families. As a rule, in the case of a childless widow, the relationship between her and the members of her husband's family will not at all be cordial ; she has to depend upon their mercy for her maintenance or rush to a court of law and wait for years for a declaration of a favourable judgment for her maintenance. To remedy this defect Act XXVII of 1937, and Act XI of 1938 amending the Act of 1937, have been enacted in British India. Under these Acts, the childless widows in British India get the right to enjoy their husband's share of family property ; and if necessary, they are even entitled to sue for partition of the family property of their husbands.

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[Mr. G. Narayana Aiyar.]

Sir, these are days when, in every community, every one is asserting his or her right to live an independent life ; dependance is no longer possible. In Mysore, as early as 1933, realising the difficulties and disabilities of women, they have passed their Regulation IX of 1933 wherein greater rights and liberties have been given not only to widows but also to sisters, daughters and all female relations. Section 8 of that Regulation shows clearly how far the rights of females are respected there. They are given a share of the family property, and they are entitled to sue for partition and to enjoy their share so obtained in a particular manner. The Hindus of Travancore governed by Mitakshara Law have their relations in the neighbouring British Indian Province as also in Mysore; it is therefore very desirable that the law is made similar in respect of the Mitakshara Hindu Widow in Travancore as well. Also, we will be failing in our duty if we do not open our eyes and redress the haisting grievances and difficulties of the Hindu Widows and do our best to give them relief.

The present Bill has been drafted on the lines of the Acts of 1937 and 1938 of British India, with very little modification. The widow is given, not any absolute right over the property she is to get, but only a widow's right.

I request the House to allow me to introduce the Bill.

Mr. M. Govindan (*Nominated*): May I know from the honourable member the nature of the deviation he has made, in this Bill, from the Acts of 1937 and 1938 of British India ?

Mr. G. Narayana Aiyar: In the Act of 1937, there is no provision for plurality of widows ; and the difficulty actually arose in a particular case. And, the Act had to be amended with a view to provide that all the co-widows should enjoy the property with equal rights. I have not made any deviation in the Bill from the acts in British India but has only copied those acts verbatim.

Mr. M. K. Anantasiva Aiyar (*Nominated*): Sir, I oppose the motion.

The main abject of the Bill seems to be to remove the existing difficulties which the childless Hindu Widow is experiencing under the present law. One of such difficulties, as was explained by the mover, is that she has to go to a court of law even to have her rights to maintenance recognised and for provision being made for her maintenance. May I just point out, Sir, that, even if the present Bill becomes law, the difficulty of suing for partition will not be remedied ? Going to court cannot be avoided whatever be the law, unless there is harmony between the parties concerned.

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Sir, according to the Mitakshara law, the widow is entitled to get maintenance consistent with the status of her husband's family, and also the amount required for *Viratams* and other religious obligations. Generally, when a Hindu leaves a childless widow what happens is this ; the widow's relations meet the relations of the deceased and come to an amicable settlement, if necessary with the intervention of interested neighbours. A certain amount is set apart for the widow's maintenance and a charge on the family property is created to the extent of such amount.

Mr. G. Narayana Aiyar: May I ask my honourable friend whether, in the absence of a registered deed or a declaration by a competent court any such charge could be created on the family property ?

Mr. M. K. Anantasiva Aiyar : I think, even under the present law, the widow has a charge over her husband's family properties, for her maintenance. Now under the existing law the widow is not entitled to get the properties of her husband's family partitioned ; the mover of the present Bill wants her to be given the right to sue for partition and to get for her enjoyment the share which her husband would have got for himself on partition if he were alive. Sir, this is against established canons of Hindu Law, and Hindu customs. After all, in Travancore, there are not many Hindus following the Mitakshara law ; and, in 99 per cent of the cases, the parties are able to arrive at mutual agreement to the satisfaction of the widows. There is therefore absolutely no necessity in Travancore for the promulgation of a legislation like the one now sought to be introduced by my friend Mr. Narayana Aiyar. The fact that such enactments have been passed in other places is no reason why we should blindly follow them, especially when there is no real necessity.

The main objection to the present system of law seems to be the difficulty in realising the maintenance amounts through courts. Sir, law's delays are proverbial in Travancore. The proper remedy for the difficulties pointed out by Mr. Narayana Iyer is to put an end to law's delays. It is not only the disposal of widows' suits for maintenance that are delayed in our courts Every money decree is being granted only after years of litigation ; and even execution of decrees takes years. Sir, if people who have advanced hard cash can afford to wait for years, why not, I ask, widows also wait for some time to get their maintenance ? (*Laughter*) As I said, if our courts are asked to expedite their work, the difficulty of the widows would be automatically removed. Further, partition suits by widows are sure to take much more time for disposal than ordinary money suits.

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[Mr. M K. Anantasiva Aiyar]

One other point worthy of consideration is this. Under this Bill, the widow is given, not absolute interest over any portion of her husband's property, but only widow's rights over her husband's share of the family property. Naturally, therefore, her interests would stop with the annual yield out of the property ; she would not care for the permanent interests of the property and would leave it to deteriorate. so that after her death the relations of her husband would not find anything left in the property

Mr. G. Narayana Aiyar : May I ask my friend whether, if her husband had been alive and had obtained his share of the family property, his relations could prevent his mismanagement of his share of the property and its consequent deterioration?

Mr. M. K. Anantasiva Aiyar : - They would have to take their chance : that is the present law. Now, my friend is proposing to change the existing law hence my objection.

Sir, family property does not necessarily mean immoveable properties ; there may be movables such as pro-notes, decrees and other actionable claims. If, when the widow gets her share of these valuable documents, she obtains the money and squanders it instead of spending merely the interest on these amounts, what is the remedy open to her husband's relations? In such cases, the family would be put to heavy loss by giving her her husband's share of the family property.

There are also other difficulties, Sir. It may so happen that, after the widowhood of the childless widow whom we are now trying to help, her mother-in-law may bring forth a good number of children. Where is the fairness, I ask, in giving this childless widow a bigger share of the family property than her husband's brothers?

Further, the Bill does not discriminate between childless widows and widows with a number of children, especially, unmarried daughters. Certainly, the needs of the latter class of widows are far greater than those of the former.

After all, Sir, what does the widow need? Under the Hindu Law, she has to lead a pious life ; she cannot have any luxuries. Her necessities are therefore very limited. I do not deny that she should be allowed to live a contended and peaceful life. I agree with Mr. Narayana Aiyar in the view that she should not be driven to court for the realisation of the amount required for her maintenance. What I would suggest is that she should be put into possession of just so much of the family property as would be necessary for her maintenance. For that, a Bill like the present one is not necessary.

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Further, the amount of maintenance fixed at a particular date is, under the present law, liable to be altered with change in the family circumstances. Such necessary change would be impossible under the present Bill.

Sir, considering all these points, I should think that the Bill should be thrown out.

Mr. James Fletcher : Sir, I rise to support the general principle of the Bill.

The Bill is for making some provision for the childless widow in a Hindu family. Under the Hindu law, although the family may be rich, the widow's husband might have been rich, yet the widow has to be a dependent upon the relations of her husband. Although my friend Mr. Anantasiva Aiyar said that her maintenance is a charge on her husband's family property, under the law, until and unless such a charge is created by a court of law, there is no such charge, and the widow has to depend upon the good will of her husband's relations.

My friend Mr. Anantasiva Aiyar said that there are not many cases of widows suing for their maintenance. The reason is not far to seek ; the widow is not able to go to a court of law. She has nobody to help her ; that is why such cases are few in number.

Sir, the Hindu widow certainly deserves to be treated on the same footing as her sisters in the State, namely, those belonging to the various other communities. In 1092, the Christian Succession Regulation was enacted in Travancore. Under that Regulation the childless widow got half of her husband's share of the family property, and over such share she has only a woman's estate, namely, the right of enjoyment. Similarly, under the Nayar Regulation, on the death of a Nayar male leaving him surviving no child or lineal descendent half of his self acquired and separate property left undisposed devolves on his widow or widows. A similar provision has been made in the Ezhava Regulation also. Therefore, except in the case of those who follow the Mitakshara law, the childless widow has already been adequately provided for. The present Bill only helps the Hindu widows also to come on a line with her sisters in the State. So far as details are concerned they may be left to the Select Committee. With these words, I support the principle of the Bill.

Mr. Kochikkal P. Balakrishnan Tampi : I also support the Bill, but not for the reasons advanced by my friend Mr. Fletcher, whose analogy of members of other communities having simila rlaws is highly embarrassing to those for whom the present Bill is intended. Because, I do not think Mr. Narayana Aiyar will claim that he is now coming forward as a Smritikartha; on the other

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[Mr. Kochikkal P. Balakrishnan Tampi.]

hand, he is only trying to give effect to ideas which have been given effect to by the usages and customs in the community to which the law relates. His attempt is merely to bring the law in Travancore into line with the law elsewhere. In fact, the community forwhich the law is intended is, in a sense, as inter-Statal or inter-Provincial community, so that it is better that our law should come into line with the law in the neighbouring Provinces and States.

There is also another reason. Mr. Anantasiva Aiyar was hankering after a very pious and peaceful life for the childless Hindu widow; all that was possible under the old joint family system which is fast disappearing yielding place to individualistic ideas. These are days when one thinks it more natural to think of his own wife and children than the wife of a distant Sopinda. The present Bill is intended, not so much to change the existing law but to give effect to modern ideas of humanity and propriety. It is not possible in this year of grace, 1939 to have another *Naradu Smirti*. That is the reason why my hon'ble friend Mr. Narayana Aiyar with commendable public spirit, has come forward with this legislation on behalf of the helpless Hindu widows, for whom at any rate there is no clamour for special representation in the Legislature.

Therefore, in the name of the helpless Hindu widows who have now to be saved from the sort of compulsory pious life which Mr. Anantasiva Aiyar prescribes for them, I support this Bill.

Mr. M. Govindan: Sir, I also support the principle of the Bill; but I am not afraid of accepting the grounds brought forward by my friend Mr. Fletcher as my friend Mr. Tampi seems to be. I have no fear, of *Smritis* being altered. In fact, my own impression is that this Legislature is more competent to alter or enact *Smritis* than the old *Smrithikarthas* were. It was the position in society which the old *Smrithikarthas* occupied that gave to their directions the sanctity of law. But here, we are constituted legislators who can enforce any piece of legislation that we make for the interests of the communities concerned. Therefore, without the fear expressed by Mr. Tampi, I accept the principle enunciated by Mr. Fletcher, and support the Bill.

I wish to make a reference to some of the objections raised by my friend Mr. Anantasiva Aiyar. I never expected that objection would come from that quarter. I thought Mr. Anantasiva Aiyar also would be representing the hard lot of the widows. I am now surprised to find that he is representing the interests of the male section of the population rather than those of the female section. My friend Mr. Anantasiva Aiyar is evidently under the impression

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that the number of suits for maintenance is a proper test of the satisfaction or dissatisfaction of the widows. I can boldly say that it is not. There are many widows in the communities concerned who are actually suffering for want of maintenance. Owing to their belonging to the weaker sex, they are not able to establish their rights before a court of law. Many submit to their hard lot and it is only some that come forward. From that it should not be said that amicabls arrangaments are being made to satisfy their just claims. That is one thing.

Another objection that my friend put forward was that she will never improve the property over which she has got only a temporary interest. I ask my friend whether the objection is not one that cannot be directed against women's estate generally. In fact when my friend Mr. Narayana Aiyar brought forward this piece of legislation and I saw simply the heading I thought that he was going to propose a piece of legislation parallel to what obtains among the Marumakkathayam communities giving absolute right to the women. But it was not so and after all this is a very modest piece of legislation intended only to secure her right. My friend Mr. Ananthasiva Aiyar will ask if a share is given to women by law for life does it avoid a suit? I say that the more the right is definitely recognised the less will be the necessity for going to a court to enforce the right. Now, the right that the widow has is a very vague right and therefore the male members may ignore it and alienate the properties without caring for the right of a widow. Hereafter, if she is entitled to a share of the property, the persons who purchase properties will take care that the consent of the woman is also obtained. That is another thing.

Then my friend says that movables will have to be divided and that money will be squandered by the widows which they have to account for. He also admits that they are expected to keep a "peaceful, quiet and pious life." It must be said to the credit of the widows that they are doing so and that there is no fear of money being squandered by them. The squandering argument is that one can be directed against the others also. But that is a danger that society has to avert by proper treatment of widows and it may be expected that the widows of these communities will be careful enough not to squander the money from the nature of the life that they are leading. I therefore support the principle of the Bill which is a very modest one and which is meant to bring the law into line with the law in force in British India and elsewhere. I ask—is it possible for the community which follows Mithakshara law in this land to be following a separate law distinct from the law followed in British India? As Mr. Narayana Aiyar said in his introductory speech there are many relations on the other side of

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[Mr. M. Govindan.]

the ghats; they will be following one law and we will be following another law. That will be a very unhappy thing. I therefore whole heartedly support the motion for the introduction of the Bill before the House.

Mrs. Abernam Gnansikhamony *(Nominated)*: Sir, I too support the Bill. It will be very cruel for an advanced country like ours to sacrifice the independence and happiness of the poor widows for the sake of observing long standing customs. They are not only women but they are widows and that must be remembered. It is heartrending to listen to the points of the honourable members who opposed the Bill. Widows, certainly, deserve a better treatment.

Mr. G. Narayana Aiyar: After hearing the able arguments of the honourable member who opposed the Bill I am not satisfied that he has made out a case for me to withdraw the Bill. There were days when women were regarded as chattel or slaves. But all those days are now over. In Amarakosa we find that the woman is described as abala as can be seen from the *pariyayams* to the word. "സ്ത്രീ" which runs as follows, "സ്ത്രീയാകി അബലാമന്ത്രി"... Very recently I read an article in a newspaper where objection has been taken to that description of the women as abala. The article states that women are taking part in all walks of life and that therefore the word "abala" should not be used in regard to women and that they enter an emphatic protest against the use of such word any further.

Mr. M. K. Ananthasiva Aiyar: May I know whether the article is with regard to women of the Mitakshara family or of any other race?

Mr. G. Narayana Aiyar: Women in general. When that is the position, when they are prepared to come forward and share in all walks of life, to say that the widows should occupy the very old position prescribed in the *Smritis* cannot any longer be maintained. My friend submitted that the widows should only lead a life of *vrithanushthanam*, that they can take only one meal a day and follow certain other directions. These commands are no longer Valid. Our High Court and all courts in British India have held that the status of the widow and of her husband and her reasonable wants are the guiding factors in fixing the rate of maintenance to the widow and that such restrictions and injunctions are not legally maintainable and that the widows have to lead as honourable and happy a life as they did when their husbands were alive, subject to the position and status of the family. I do not admit the position submitted by Mr. Anantasiva Aiyar that the widow

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ought to be satisfied with bare maintenance. Even as regards maintenance we very often see that very often to defeat the widows right to get maintenance and in anticipation of litigation the other members of the family alienate the family property and that leads to trouble so far as the widow is concerned. Now, as the law stands, the widow cannot positively say what is the exact amount she is entitled to get as maintenance because that depends upon very many contingencies, the position of the family the family income, the family expenses and other things. If the provisions of the present Bill are accepted the widow's right will be safe. Her husband's share is a definite property over which she will have rights of enjoyment and that also minimises the difficulties of litigation. The other members of the family will be ready and willing to treat the widow liniently and kindly when it is declared by law that she has a definte right over her husband's share of properties.

As regards the defective management by women, contended for by Mr. Anantasiva Aiyar my friend Mr. Govindan has dealt with all the points raised by Mr. Anantasiva Aiyar in detail and so I think it is unnecessary for me to go over it again. If there is any difficulty or waste in the management of estates by widows there are the legal remedies which could be obtained through courts. An injunction may be obtained restraining her from wasting the property. Such remedies are not lost by this Bill.

My friend submitted also that the right of a widow for maintenance is a charge on the family property. I do not think that the statement is legally correct. The claim of a widow for maintenance is not a charge upon the estate of her deceased husband until it is fixed and charged upon the estate. This right is even liable to be defeated by a transfer of the husband's property to a *bona fide* purchaser for value. This position has been declared by our High Court. It has also been held that the widow's claim is liable to be defeated by a transfer to a purchaser for value even with notice of the claim unless the transfer was made to defeat the widow's right and the purchaser had notice of such intention. The charge has to be declared by a court of law or by a registered document between the parties or else there may be a general charge on the property but not a specific charge on any specific property. It can be seen that in no other community there exists such a restriction on widow's rights. When widows of other communities enjoy such freedom, it is only right that Hindu widows are also allowed to enjoy their husbands' properties. After having been married to a wealthy man to ask a Hindu widow Governed by Mitakshara law

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[Mr. G. Narayana Aiyar.]

to lead a miserable life, after her husband's death ignoring the status of her husband, I submit, is very cruel. As such, I hope that the principle of my Bill will be accepted by the house.

The question was put and carried and the principle of the Bill was accepted by the house.

The Secretary to the Sri Mulam Assembly then read the title of the Bill—The Travancore Hindu Women's Rights to Property Bill.

Mr. G. Narayana Aiyar: Sir, I now propose that the Bill be referred to a select committee consisting of the following members, the committee to submit its report in three months :—

Mr. James Fletcher
" Kochikal P. Balakrishnan Tampi
" V. S. Arumukhom Pillai
" M. K. Anantasiva Aiyar
Mrs. Abernam Gnanasikhamony
Mr. Kalloor Narayana Pillai
" M. Govindan
" Kottoor Kunjukrishna Pillai
" T. Mahomed Ismail
" C. N. Tuppan Namputiripad
" A. Easwara Pillai,
" P. I. Simon,

Legal Remembrancer and the mover of the Bill.

Mr. James Fletcher: I second the motion.

The motion was carried.

THE TRAVANCORE KRISHNANVAGA MARUMAKATHAYAM BILL.

Mr. James Fletcher: Sir I beg to move for leave being granted to me to take charge of the Travancore Krishnanvaga Marumakathayam Bill. This Bill was read in this House sometime ago, and it was referred to a Select Committee with the permission of this House. The select committee was composed of

Mr. Kottoor Kunjukrishna Pillai
" G. Narayana Aiyar
" Kalloor Narayana Pillai
" M. K. Anantasiva Aiyar
" V. S. Arumukhom Pillai

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